

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

THOMAS EUGENE STEFANI,

Plaintiff,

v.

DANIEL ALLEN LONGHORN and  
EDWARD ALFRED LONGHORN, SR.,

Defendants.

Case No. 2:23-cv-00343-YY

ORDER

**Adrienne Nelson, District Judge**

United States Magistrate Judge Youlee Yim You issued her first Findings and Recommendations ("First F & R") in this case on May 1, 2023. Judge You recommended that this Court dismiss this case without prejudice because after an attempt to cure the complaint's deficiencies, plaintiff has failed to establish subject matter jurisdiction. Plaintiff filed objections. On July 3, 2023, before this Court issued an order on the First F & R, plaintiff filed a Proposed Motion for Leave to File Amended Complaint. On that same day, Judge You issued a Second F & R recommending that this Court deny plaintiff's motion and dismiss the case with prejudice because plaintiff has failed to establish subject matter jurisdiction and amendment would be futile.

A district court judge may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). If any party files objections to a magistrate judge's proposed findings and recommendations, "the court shall make a de novo determination of those portions of the report." *Id.* If no objections are filed, then no standard of review applies. However, further review by the district court *sua sponte* is not prohibited. *Thomas v. Arn*, 474 U.S. 140, 154 (1985). The Advisory Committee notes to Federal Rule of Civil Procedure 72(b)

recommend that unobjected to proposed findings and recommendations be reviewed for "clear error on the face of the record." Fed. R. Civ. P. 72(b) advisory committee's note to 1983 amendment.

Upon review, I agree with Judge You's recommendation, and I ADOPT the First F&R, ECF [24], and the Second F & R, as my own opinions. Because plaintiff has failed to establish subject matter jurisdiction and amendment would be futile, this case is dismissed with prejudice. All other pending motions are denied as moot.

IT IS SO ORDERED.

DATED this 21st day of August, 2023.



Adrienne Nelson  
United States District Judge